

BENSALEM TOWNSHIP

Building and Planning Department
2400 Byberry Road • Bensalem PA 19020
215-633-3644 • FAX 215-633-3653

SUBDIVISION AND LAND DEVELOPMENT APPLICATION SITE AND PLAN CHARACTERISTICS

CHECK ONE:

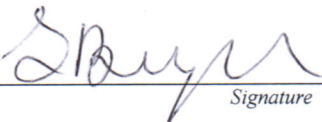
- ☐ Sketch Plan
- ☐ Lot Line Change
- ☐ Minor Subdivision
- ☐ Minor Land Development
- ☐ Preliminary Subdivision
- ☒ Preliminary Land Development
- ☐ Final Subdivision
- ☐ Final Land Development
- ☐ Conditional Use
- ☐ Other

DATE OF SUBMISSION:

Tax Parcel # 2-45-31-1
Location 1411 Ford Road
Zoning Classification L-I Light Industrial District
Proposed # of Lots or Leaseholds 1
Area of Commercial Bldg of Addition (sf) 19,380 SF building addition
Name of Development VIP Wireless
Proposed Use Warehousing and Storage
Site Area (ac) 1.84 Ac. (net)
Development Area (ac) 1.84 Ac.

**SUBMISSION IS TO INCLUDE A DISC WITH APPLICATION AND PLAN(S) IN PDF FILE FORMAT
or email same to jmryan@bensalem-township.org.**

1. Name, address & phone No. of Applicant:


Signature

VIP Wireless c/o Greg Berger

1366 Ford Road

Bensalem, PA 19020

215-671-9700

Daytime Contact Number

2. Name, address & phone No. of Attorney:
(if other than applicant)

Signature

Thomas R. Hecker

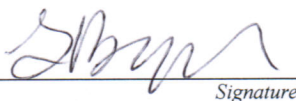
Begley, Carlin and Mandio

680 Middletown Boulevard Langhorne, PA 19047

215-750-0110

Daytime Contact Number

3. Name, address & phone No. of Owner:


Signature

1411 (One) Ford Road, LLC c/o Daniel Snyder

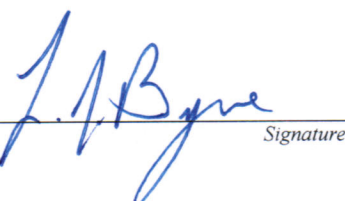
113 South 21st Street

Philadelphia, PA 19103

215-671-9700

Daytime Contact Number

4. Name, address & phone No. of Person Designing Plan:


Signature

Lawrence J. Byrne, PE

Eastern/Chadrow Associates, Inc.

333 East Street Road Warminster, PA 18974

215-672-8671

Daytime Contact Number



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215-671-9700

(Existing Contact Number)

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333 East Street Road Warminster, PA 18974
215-672-8671

(Existing Contact Number)

5. Has parcel ever been subject to subdivision or land development approval? Yes
- If Yes: Date of Approval _____
- Plan Title Bridgewater Industrial Park, Section II
- Recording Date October 6, 1972
- Plan Book 101
- Page 40
6. Has parcel ever received relief from the Zoning Hearing Board? Yes
- If yes, list date of decision and attach copy of the decision. Appeal No. 2016-492 descion June 2, 2016
7. Deed restrictions that apply or are being contemplated. If no restrictions, state none. If yes, attach copy.
None
8. List proposed improvements and utilities to be installed:
Proposed improvements shall be a 19,380 SF building addition.
9. List title of each plan, report and any other documents submitted:
- | | |
|---|-------------------------------------|
| 1. Site Plan of Land Development | <u>Stormwater management Report</u> |
| 2. Existing Features / Demolition Plan | _____ |
| 3. Erosion & Sedimentation Control Plan | _____ |
| 4. Post Construction Stormwater Plan | _____ |
| 5. Landscape/Lighting & Detail Plan | _____ |
10. List presence of floodplain, wetlands, steep slopes or any other environmental features on site:
None
11. List all variances and special exceptions that will be required from the Zoning Hearing Board for this application:
Variance already obtained.
12. List all zoning changes, conditional uses and waivers that will be required for this application:
None

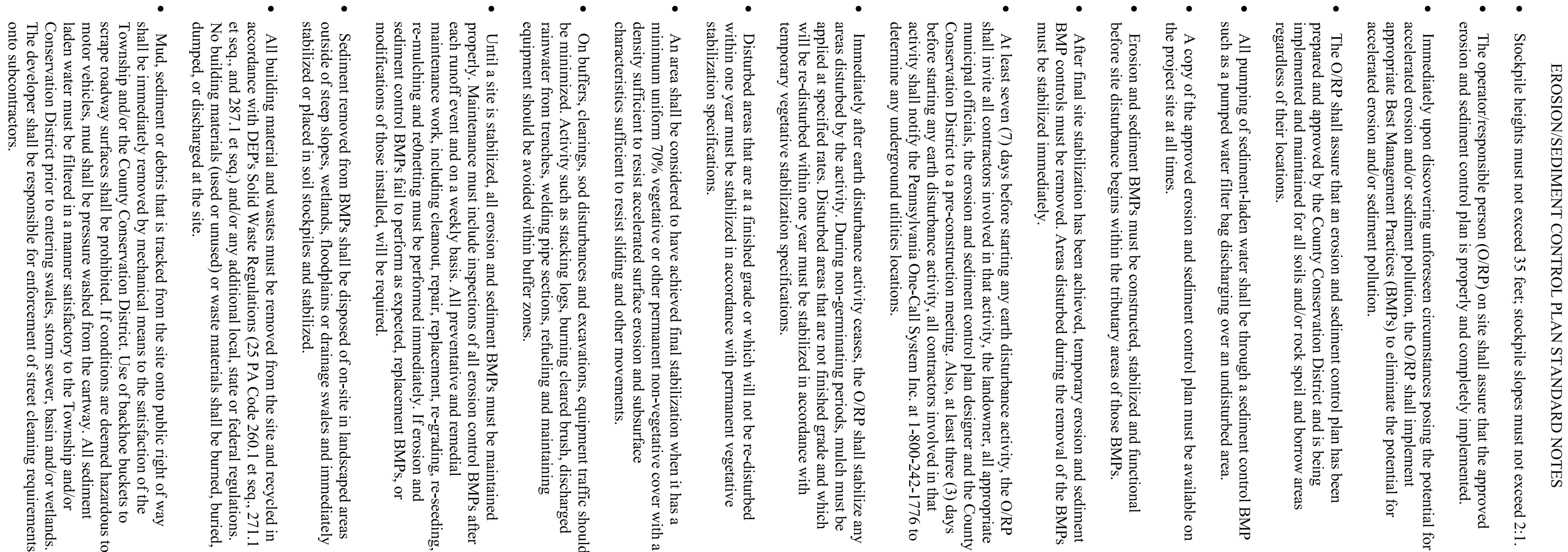
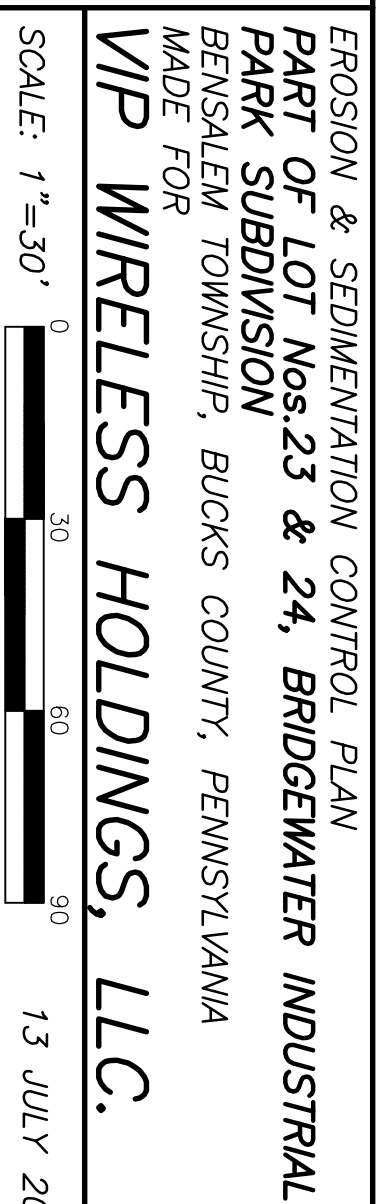
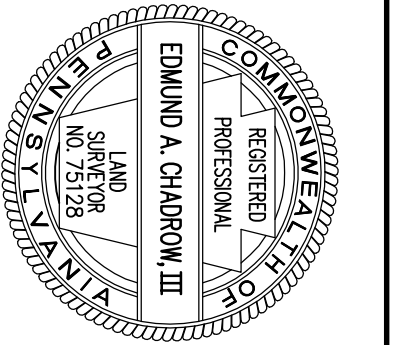
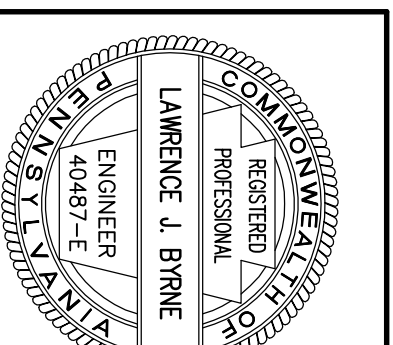
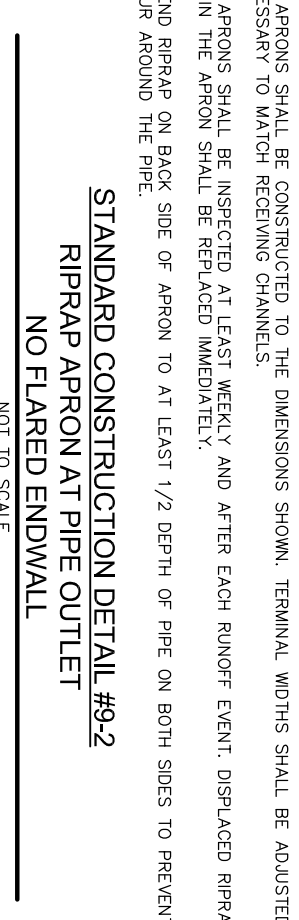
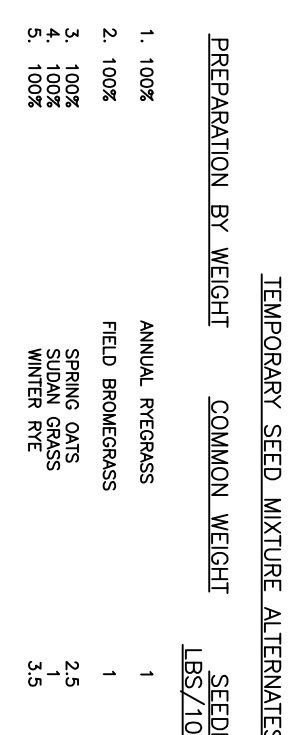
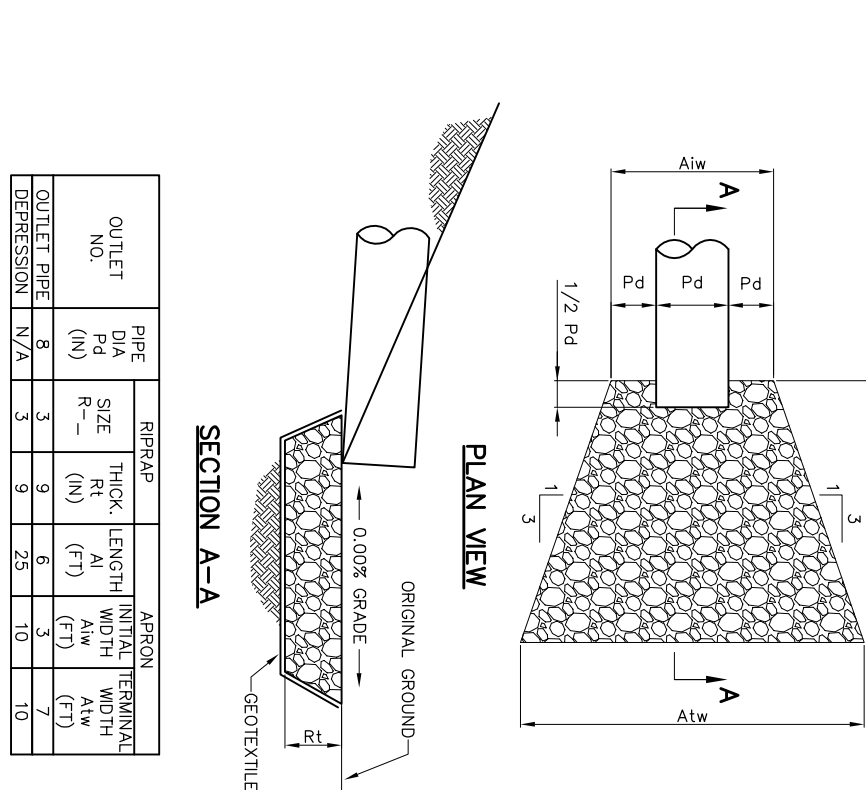
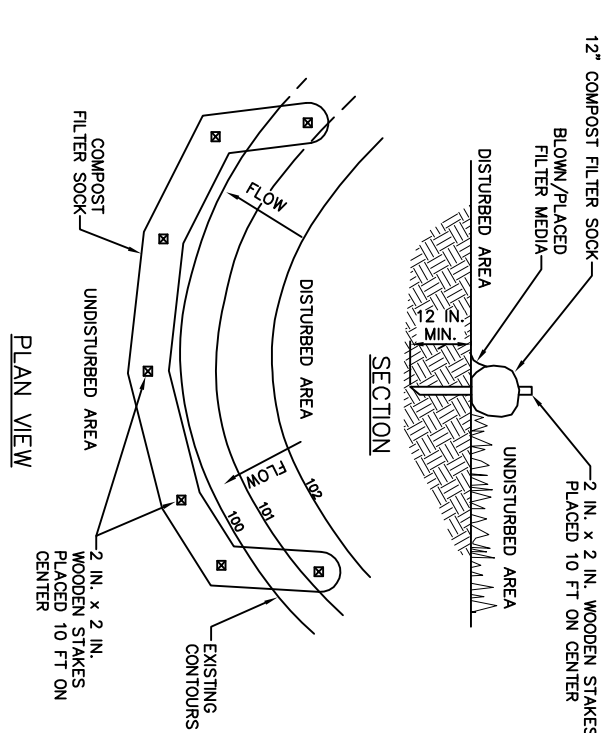
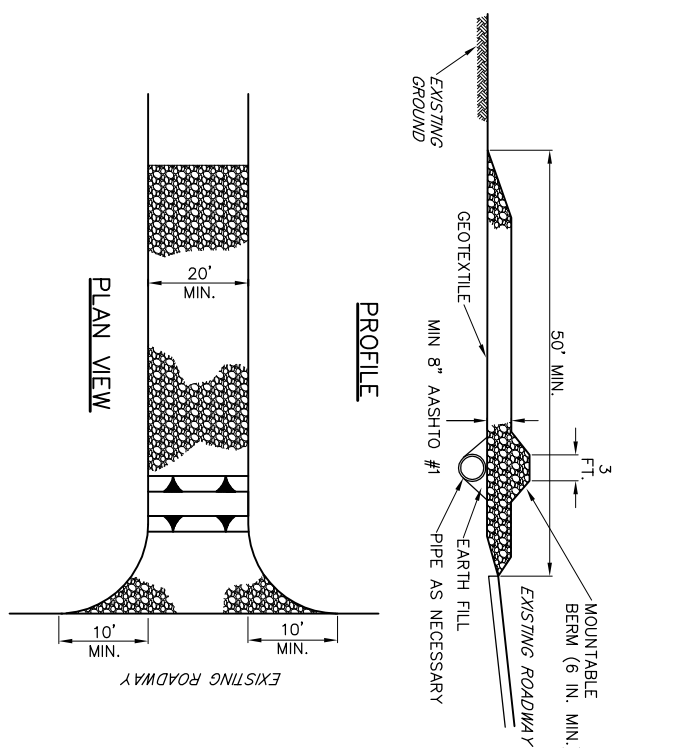
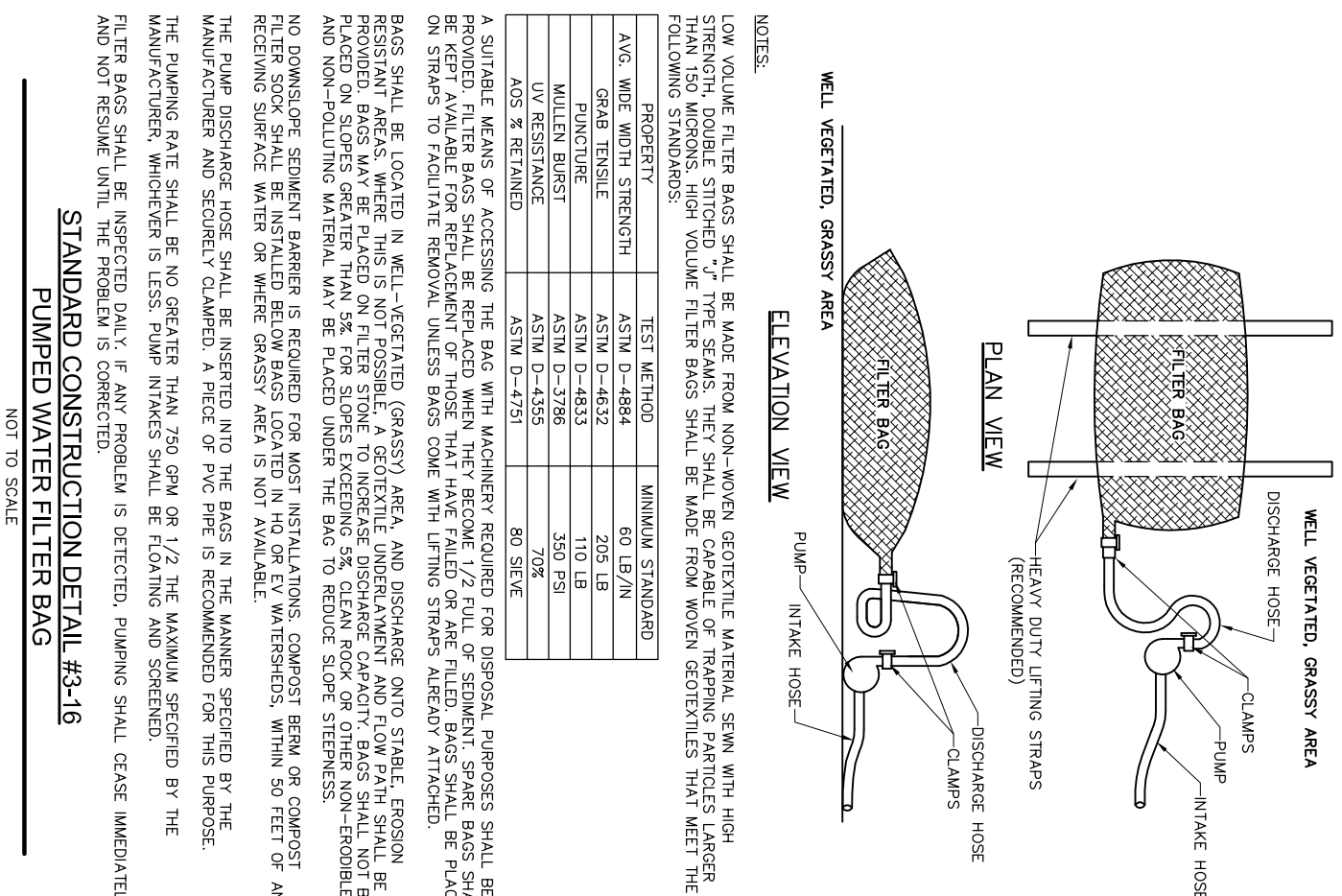
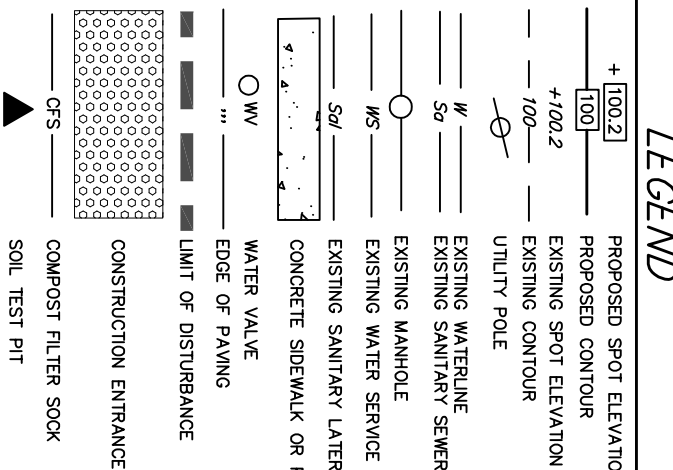
NOTE: Plan requirements can be found in The Code of the Township of Bensalem, Chapter 201

FOR MUNICIPAL USE ONLY:

Date Received: _____

Application Fee: _____

Escrow: _____



June 3, 2016

Via Certified Mail RRR & First Class Mail, Postage Prepaid

VIP Wireless Holdings, LLC

Attn: Greg Berger

1366 Ford Road

Bensalem, PA 19020

Re: Bensalem Township Zoning Hearing Board Appeal No: 2016-492
Property: 1411 Ford Road, Bensalem, PA

Dear Mr. Berger:

Enclosed you will find the Board's formal decision, with findings of fact and conclusions of law, with respect to your zoning application heard by the Board on May 5, 2016. The Board GRANTED your request for a variance from the zoning ordinance regarding building coverage and side yard setbacks. Please keep in mind that any party not satisfied with the Board's decision has thirty (30) days from today's date within which to file an appeal with the Court of Common Pleas of Bucks County, Pennsylvania. Therefore, you should proceed with caution.

If you have any questions regarding the contents of this decision, or your legal rights, you should speak with an attorney of your choice.

Very truly yours,


Barbara M. Kirk, Esquire

BMK:tec
Enclosure

cc: Thomas R. Hecker, Esquire (w/encl., via email)
 Matthew K. Takita, Township Zoning Officer (w/encl., via email)
 Loretta Alston, Township Clerk Typist (w/encl., via email)

**ZONING HEARING BOARD OF BENSALEM TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA**

Applicant: VIP Wireless Holdings, LLC
Attention: Greg Berger, VP Operations
1366 Ford Road
Bensalem, PA 19020

Applicant's Attorney: Thomas R. Hecker, Esquire
Begley, Carlin & Mandio, LLP
680 Middletown Boulevard
Langhorne, PA 19047

Appeal No.: 2016-492

Owner of the Property: Applicant listed above

Subject Property: 1411 Ford Road
Bensalem, PA 19020
Bucks Co. TMP #02-045-031-001

Prayer of Application: Applicant seeks variances from Sections 232-533(2) and 232-533(3)(b)(1) of the Township's Zoning Code regarding building coverage and side yard setbacks for expansion of existing building

Time & Place of Hearing: May 5, 2016 at 7:30 p.m.
Bensalem Township Municipal Building
2400 Byberry Road
Bensalem, Pennsylvania, 19020

FINDINGS OF FACT

1. Applicant is the owner of the subject property and has the requisite interest in the subject premises to present this application to the Board.
2. The Zoning Hearing Board of Bensalem Township met the requirements of the Zoning Ordinance ("Ordinance") and the Pennsylvania Municipalities Planning Code of the requisite legal notices of the hearing held on May 5, 2016.
3. Notice of the hearing was duly posted at the subject property as required by the Ordinance.

4. Notices of the hearing were mailed to residents and property owners in accordance with the Ordinance and the Pennsylvania Municipalities Planning Code, as set forth in the Certificate of Service provided by Applicant.

5. The subject property is located in the LI – Light Industrial Zoning District in accordance with the Township's Zoning Map and pursuant to the Ordinance.

6. Applicant submitted and the following exhibits were admitted into evidence:

A-1 Zoning application with accompanying documents

A-2 Site plan for the subject property

A-3 Certificate of service

7. The Board also admitted the following additional exhibits:

B-1 ZHB solicitor notice letter to applicant's attorney with sample documents

B-2 Proof of publication of the legal advertisement placed in the *Bucks County Courier Times* advertising the hearing held on May 5, 2016.

B-3 Proof of posting notice of hearing at the property.

8. The subject property consists of 1.8 acres of land with an existing building of 20,225 square feet, previously used for storage and warehouse, with existing off-street parking areas.

9. Applicant acquired the property for its existing mobile phone distribution business operations.

10. Applicant operates a distribution business of mobile cellular telephones which has been in operation for approximately twenty years.

11. Applicant currently operates the mobile phone distribution business from another facility located directly across the street from the subject property.

12. Applicant acquired the subject property as an extension of its existing packaging and distribution business, due to the increase in business customers and contracts.

13. Applicant intends to expand the existing warehouse building on the property by constructing a rear addition of 19,380 square feet which addition will align with the current building lines.

14. The proposed addition to the existing warehouse building will mirror the warehouse building across the street from the subject property.

15. The new building with the addition will continue to be used as a "pack and shipping" center for the Applicant's business operations.

16. All products and supplies are delivered to the Applicant's business by tractor trailers; however all outgoing distributions and deliveries will be accomplished via federal express or other similar delivery vehicles.

17. The rear of the existing building and proposed addition will continue to be used for off-street parking, and consists of crushed stone and/or broken asphalt.

18. The proposed addition will be constructed on a portion of the existing off-street parking area, thereby eliminating any increase in impervious surface coverage.

19. Applicant estimates that twenty-three parking spaces are available on the property for off-street parking.

20. Additional parking may be available by removal of overhead doors to the existing second accessory building on the property.

21. Applicant further intends to remove some of the existing crushed stone/asphalt in the front of the building to provide for "green" area.

22. Due to the alignment of the proposed addition to the existing building, a side yard of two feet is proposed, which is less than the otherwise required side yard setback of twenty feet.

23. The existing building on the property sits two feet from the property line; thus, the current side yard setback for the existing building is non-conforming.

24. The proposed addition will also increase the maximum building coverage which is otherwise limited to 35% of the net lot area.

25. Applicant, through its representatives, the vice-president of operations and the civil engineer for the project, confirmed that storm water management facilities, such as rain garden or depression, will be installed, if required by the Township during the land development review process.

26. Other than the Applicant's vice president of operations and the project engineer, no other residents testified in support of, or in opposition to, the application.

DISCUSSION AND CONCLUSIONS OF LAW

In determining whether the variances should be granted, the Board correctly considered the five criteria as set forth in the Pennsylvania Municipalities Planning Code:

- a. That the subject property consists of unique physical circumstances or conditions that are peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
- b. That because of such physical circumstances or conditions, the subject property cannot be developed in strict conformity with the provisions of the zoning ordinance and that a variance is necessary to enable the reasonable use of the property;
- c. That the unnecessary hardship has not been created by the appellant;
- d. That the variance, if authorized, will not alter the essential character of the neighborhood where the property is located nor will the variance substantially or permanently impair the appropriate use or development of adjacent properties nor be detrimental to public welfare; and
- e. That the variance, if granted, represents the minimum relief to the applicant and such variance represents the minimum modification possible of the regulation in issue. 53 P.S. §10910.2(1968).

When seeking a dimensional variance, the quantum of proof to establish unnecessary hardship is less strict than seeking an use variance. *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 721 A.2d 43, 48 (Pa. 1998). In considering whether or not to grant a dimensional variance, multiple factors are considered, such as economic hardship to the applicant, financial hardship to bring the property into compliance with local zoning regulations and characteristic of surrounding neighborhood. *Id.* at 50. A dimensional variance may be granted in limited situations where the proposed deviations are relatively minor. The decision of whether to grant or deny the variance is left to the discretion of the local zoning hearing board. *Segal v. Zoning Hearing Board of Buckingham Township*, 771 A.2d 90, 95 (Pa. Cmwlth. 2001).

In the instant application, Applicant seeks two dimensional variances regarding side yard setback and building coverage to construct an addition to the existing building for use in the Applicant's business operations. Firstly, the Board notes that the current building on the subject property is legally existing but does not conform to the current zoning regulations, in that the existing building has a northwesterly side yard of two feet, rather than the otherwise required twenty feet. As such, the Board acknowledges that the current building is an existing non-conforming structure. The proposed rear addition will be aligned with the existing building so that the northwesterly sides of the buildings provide a side yard setback of two feet.

Secondly, the property currently consists of a large warehouse and storage building, with a secondary detached accessory building, and off-street parking composed of crushed stone and/or broken asphalt. Other than a small green area in the front of the property, the property

itself is otherwise currently covered with impervious materials. Applicant intends to construct the rear addition to the building by placing the addition on existing impervious surface. Due to the size of the addition, and in an effort to maintain an overall facility similar to the warehouse facility across the street, Applicant will exceed the otherwise maximum building coverage otherwise permitted under the zoning regulations.

Based on the testimony provided by the Applicant, the Board determined that the variances requested by the Applicant are *de minimus*, and will not substantially affect the property or the surrounding properties. Accordingly, the Board granted the requested relief.

DECISION AND ORDER

AND NOW, this 2nd day of JUNE, 2016, after public hearing held on May 5, 2016, and pursuant to a public vote, five members voting in favor, the Zoning Hearing Board of Bensalem Township does hereby formally **ADOPT** the above **FINDINGS OF FACT** and **DISCUSSION AND CONCLUSIONS OF LAW**. The Board further **RATIFIES** its Decision of May 5, 2016 and does hereby Order and Direct that the Application for variances, as stated above, be and the same is **GRANTED**. Specifically, the Board does hereby grant the following relief:

- a. Variance from Section 232-533(2) of the Zoning Ordinance to permit building coverage of 49.2% which is greater than the maximum coverage otherwise permitted; and
- b. Variance from Section 533(3)(b)(1) to permit a side yard setback of two feet.

THIS WILL SERVE AS THE REQUIRED WRITTEN NOTICE AND DECISION THAT YOUR APPLICATION HAS BEEN HEARD AND A DECISION HAS BEEN MADE BY THE BENSALEM TOWNSHIP ZONING HEARING BOARD. IF YOU, OR ANY OTHER PARTY OF INTEREST, WISH TO APPEAL THIS DECISION, YOU MAY DO SO ACCORDING TO PENNSYLVANIA LAW, AND GENERALLY, YOU HAVE THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE TO FILE AN APPEAL WITH THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA.

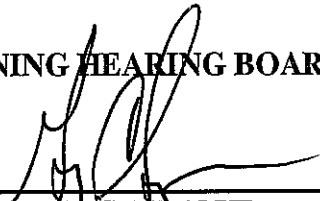
This is not a building permit or zoning permit. Building permits and zoning permits must be secured from the appropriate township officials prior to construction or use of the premises.

The grant of the variances does not relieve the Applicant from complying with all other requirements of the Bensalem Township Zoning Ordinance, the Bensalem Township Subdivision and Land Development Ordinance, the Bensalem Township Building Code and Fire Codes, and all other applicable state, county and township ordinances and regulations.

On any Zoning Hearing Board decision approving proposed construction of any type requiring a building permit, such building permit must be secured within twelve (12) months of the date of the Decision granting a use variance and within twenty-four (24) months of the date of the Decision granting a dimension variance or the Zoning Hearing Board's approval is automatically voided.

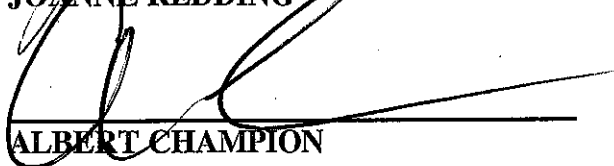
BENSALEM TOWNSHIP ZONING HEARING BOARD


ANGELINE DOMANICO


GEORGE SEYMOUR

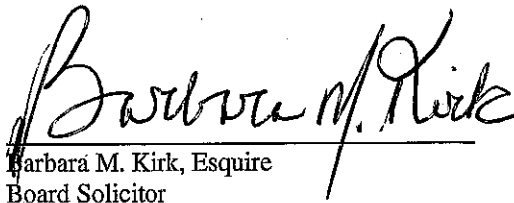

JOANNE REDDING


MICHAEL BRILL


ALBERT CHAMPION

CERTIFICATION OF DECISION:

I hereby certify that copies of the within Decision and Order were served upon Applicant, and his or her attorney by mailing a true and correct copy, by first class mail and certified mail, to the Applicant and his or her respective attorney on this 3rd day of June, 2016.


Barbara M. Kirk, Esquire
Board Solicitor